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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL GREGORY THOMAS,

Defendant and Appellant.

E056162

(Super.Ct.Nos. SWF1101040 &
RIF1104875)

OPINION

APPEAL from the Superior Court of Riverside County. Dennis A. McConaghy, Judge. (Retired judge of the Riverside Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed as to case No. SWF1101040. Affirmed as to case No. RIF1104875.

Patrick J. Hennessey, Jr., under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

A. Case No. SWF1101040

On June 9, 2011, in case No. SWF1101040, an information charged defendant and appellant Daniel Gregory Thomas with child abuse likely to cause great bodily injury or death under Penal Code¹ section 273a, subdivision (a) (count 1); and assault with a deadly weapon under section 245, subdivision (a)(1) (count 2). The information also alleged that defendant had suffered one prior strike conviction within the meaning of section 667, subdivisions (c) and (e)(1).

On January 24, 2012, defendant entered a plea of guilty to count 1, and admitted the prior strike conviction. The plea agreement provided that the People would dismiss count 2, and that defendant would receive a two-year sentence, doubled under the three strikes law, for a total of four years. This term was to run consecutive to a sentence to be imposed in case No. RIF1104875.

B. Case No. RIF1104875

On October 18, 2011, an information charged defendant with one count of perjury under section 118. The information also alleged that defendant had suffered one prior strike conviction within the meaning of section 667, subdivisions (c) and (e)(1).

On January 24, 2012, defendant entered a plea of guilty to the one count of perjury, and admitted the prior strike conviction. The plea agreement provided that

¹ All statutory references are to the Penal Code unless otherwise specified.

defendant would receive a two-year sentence consisting of one-third of the midterm of one year, doubled under the three strikes law. The sentence was to run consecutive to the sentence imposed in case No. SWF1101040.

In both cases, defendant was sentenced on March 13, 2012, to the agreed-upon term of imprisonment, as detailed above. Defendant was also given credit for 646 days of presentence custody credits. Furthermore, he was ordered to pay a \$200 restitution fine and a \$200 parole revocation fine, which was suspended unless parole is revoked, in both cases.

On April 26, 2012, defendant filed a timely notice of appeal in both cases.

STATEMENT OF FACTS²

A. Case No. SWF1101040

Jane Doe, the victim in this case, testified at the preliminary hearing. On April 25, 2011, when Doe was 13 years old, she lived on Fairview Avenue in the City of Hemet. That night, between 11:30 p.m. and 12:00 a.m., her father, defendant, knocked on the window to her room and asked her to open the garage. Defendant was not living at the residence at the time. Doe opened the garage door and let him in. While in the garage, defendant asked Doe something about her Facebook page and an argument ensued. Defendant was upset with Doe about her postings and was confronting her about them. During the course of the argument, defendant took a cable cord from a television set and

² Since defendant pled guilty in both cases, the facts are taken from the transcripts of the preliminary hearings.

began to hit Doe with it. She estimated that the cord was approximately 15 inches in length. Doe was struck in the face, arms and chest with the cord. Doe was treated and released from a local hospital. She sustained injuries to her hand and face.

B. Case No. RIF1104875

Defendant filed criminal charges against his wife, Latasha Thomas. Thomas was charged on January 29, 2008, with spousal abuse in violation of section 273.5; and assault with a deadly weapon, a box cutter, in violation of section 245, subdivision (a)(1). She was in custody for over three months before being released. She recalled that at her preliminary hearing, defendant testified that she had assaulted him and cut him with a box cutter. Thomas denied having committed any such assault and claimed that she was not in the area at the time. In a recorded telephone conversation defendant made from the Riverside County jail, he admitted that he had lied at the preliminary hearing and that he had filed charges against Thomas because of ongoing disagreements he had with her. Defendant's son told investigators that defendant requested the son to lie and state that he had witnessed the assault.

ANALYSIS

After defendant appealed, and upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of the case, a summary of the facts, and potential arguable issues, and requesting this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgments are affirmed.

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MCKINSTER
Acting P. J.

We concur:

RICHLI
J.

CODRINGTON
J.